IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 2210 of 2005
With
CRIMINAL MISC.APPLICATION No. 2212 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE J.R.VORA

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

VIJAYKUMAR DHANSUKHLAL JINWALA & ORS
Versus
THE STATE OF GUJARAT & ANR

==========

Appearance :
MR YN OZA for MR SP MAJMUDAR for Applicants
MR AY KOGJE APP for Respondent NO. 1
MR JM PANCHAL for Respondent No. 2
MR KJ PANCHAL for Respondent No. 2

==========

CORAM : HONOURABLE MR.JUSTICE J.R.VORA

Date : 13/06/2006

COMMON ORAL JUDGMENT

1 Heard learned Senior Counsel Mr. Y.N. Oza in both the

petitions for the petitioners, learned APP Mr. A.Y. Kogje for the respondent No. 1 State and learned Advocate Mr. K.J. Panchal for the respondent No.2 in both the petitions. Respondent - Sunil Narendrabhai Jariwala in both the petitions preferred one private complaint in the court of Chief Judicial Magistrate, Surat, being Criminal Case No. 12 of 2005 for the offences under Sections 465, 467, 468, 471, 34, 114 and 120(B) of the Indian Penal Code. Accused Nos. 1,2, 3, 5 and 6 preferred Criminal Misc. Application No. 2210 of 2005 for quashing of the said criminal case while remaining accused i.e. accused No.4 preferred Criminal Misc. Application No. 2212 of 2005 for quashing of the said criminal case and hence these both petitions are taken together for hearing.

2 Learned Senior Counsel Mr. Y.N. Oza for the petitioners in both the petitions and learned Advocate Mr. K.J. Panchal for respondent No.2 original complainant in both the petitions have submitted that so far as the subject matter of the complaint is concerned, the parties have arrived at amicable settlement and compromise and that there is no grievance whatsoever to the original complainant against the present petitioners i.e. original accused. Learned Counsels submitted a xerox copy of the said compromise which is taken on record.

3 On pursuance of the said complaint being filed by the complainant, the same was sent to the police for investigation

under Section 156(3) of the Code of Criminal Procedure and initially this Court had protected the petitioners to the extent of not arresting them.

4 The subject matter of the complaint was land, for which allegations were levelled against the present accused.

5 True it is that, the allegations for which the present petitioners are charged are not compoundable, but we are in the jurisdiction of quashing of the complaint, wherein the Apex Court in the matter of B.S. JOSHI vs. STATE OF HARYANA, as reported in AIR 2003 SC 1386 was pleased to observe that Section 320 of the Code of Criminal Procedure does not limit or affect the powers of the High Court, which are in the nature of inherent powers under Section 482. It was further observed that for the purpose of securing the ends of justice, quashing of the FIR becomes necessary, Section 320, would not be a bar to exercise the powers of quashing vested in this Court. Of course, it all depends upon the facts and circumstances of each case.

6 So far as the present case is concerned, there was civil disputes about the piece of land between the parties. That dispute is amicably settled between the parties and the complainant himself therefore is not willing to prosecute the said criminal case any further and, therefore, in this set of circumstances, to secure the

ends of justice, it would be necessary to quash the criminal case and other proceedings in pursuance of the said case including investigation.

7 In view of above, both the petitions are allowed. Criminal Case No.12 of 2005 pending before the Chief Judicial Magistrate, Surat, filed by Sunil Narendrabhai Jariwala against the present petitioners stands quashed along with other proceedings taken in pursuance of the said case including investigation also stands quashed.

8 Rule is made absolute in both the matters.

(J.R.VORA, J.)

pnnair